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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,361	06/05/2002	Yoram Alroy	ALROY=2	8129

1444 7590 08/17/2005

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EXAMINER

MULLEN, KRISTEN DROESCH

ART UNIT PAPER NUMBER

3762

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/069,361

Applicant(s)

ALROY, YORAM

Examiner

Kristen Mullen

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/4/05 (Response).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16, 17 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 23-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                              |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                                             | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/14/05</u> . | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. The indicated allowability of claims 23-28 is withdrawn.

#### ***Claim Objections***

2. Applicant is advised that should claim 27 be found allowable, claim 28 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). The only differences between the claims are the preamble of the claims. The preambles of claims 27-28 each contain statements of intended use that do not alter the scope of the claims.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Mogi et al. (5,505,202).

Regarding claims 23, 27 and 28, Mogi et al. shows an electrode assembly comprising a thin flexible electrode support supporting a plurality of electrodes (3, 6), at least some of which are fixedly constructed on the electrode support characterized in that the flexible support comprises a plurality of foldable sections (1A, 2) that open out to form a substantially flat base (Figs. 1-2, 6-7).

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With respect to claim 24, Mogi et al. shows a vocalizing unit (8, 10).

Regarding claim 25, Mogi et al. shows digital circuitry (66) (Fig. 19).

5. Claims 23, 26 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan (5,466,244).

Regarding claim 23, Morgan shows a device comprising a electrode assembly having a thin flexible electrode support supporting a plurality of electrodes (56) at least some of which are constructed on the electrode support and the flexible support comprises a plurality of foldable sections that fixedly support the electrodes thereon and form a substantially flat base base (Figs. 1-10).

With respect to claims 27-28, Morgan shows a device comprising an electrode assembly having a thin flexible electrode support supporting a plurality of electrodes (56) at least some of which are constructed on the electrode support and the flexible support comprises a plurality of foldable sections (Figs. 1-10).

6. The functional language and statements of intended use have been carefully considered but are not considered to impart any further structural limitations over the prior art.

The recitations of “for producing electrical contact” and “for producing an electrocardiogram” are statements of intended use, since there is no claimed structure that limits the invention to these particular uses.

The recitations that the electrode assembly can be folded into a compact unit prior to and after use is a statement of intended use. The claims do not include any electrode assembly structure that distinguishes it over the prior art. The use of the word foldable has been

interpreted to include the ability to be folded due to the lack of any claimed structure that distinguishes it over the prior art.

The recitations that the plurality of foldable sections are embedded (i.e. snugly enclosed) within a wallet also comprise statements of intended use. The specification does not disclose that the foldable sections are embedded in the wallet in the sense that they are integral with the wallet, but rather disclosed how the electrode assembly can be connected and disconnected to the wallet via a connector (22). As such, enclosing the foldable sections of the electrode array within a wallet is an intended use.

The preamble recitations of intended use “A 12-lead ECG signaling device”, “An ECG signaling device” have not been considered since there is no structure set forth in the body of the claim that limits the claimed invention to these particular uses.

The information listed in the parenthesis has not been considered as a limitation to the claims.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on M-F, 10:30 am-6:30 pm.

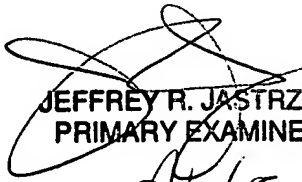
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kdm

*Kristen Muller*

  
JEFFREY R. JASTRZAB  
PRIMARY EXAMINER  
8/16/05